

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

April 6, 2000

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, April 6, 2000, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Rider, Chairman; Mr. William Barr, Vice Chairman; Dr. James Branscome, Mrs. Peg Mailler, Mr. John Meadows, and Mr. James VanLuven. Also present were Mrs. Tracy Gallehr, Assistant County Attorney; Mr. Fred Hodge, Planner, and Mrs. Beverly Pullen, Zoning Office Technician. Mrs. Carolyn Bowen, Zoning Administrator, and Mr. Eugene Lofdahl were absent.

MINUTES

The minutes of the March 2, 2000 meeting were approved as distributed.

LETTERS OF NOTIFICATIONS

PUBLIC NOTICE Mr. Hodge stated that to the best of his knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners.

VARIANCE #45251

CHARLES E. BUSER (OWNER)

The applicant has requested a variance of seventeen (17') feet to the side yard (setback) requirement for a proposed detached garage, wherein the Zoning Ordinance requires twenty five (25') feet. The subject property is identified as PIN #6982-22-9341-000 containing .75 acres, and is located at 9227 James Madison Highway (State Routes 15 & 29) and is zoned Rural Agriculture, in Marshall District.

Mr. Hodge stated that staff has visited the site since the March 2, 2000 meeting to determine the location of the existing drainfield and septic box, and after review of the location of these areas, staff believes a variance of 12 feet 6 inches would be reasonable. He stated that a new drawing has been submitted to show these areas.

Mr. Buser was present on behalf of this request.

Mr. Rider asked Mr. Buser if he was going to remove the two existing structures on the property, and he stated that he will remove the two garages.

No one was present to speak regarding this request.

On the motion made by Mr. Meadows and seconded by Mr. Barr, it was moved to approve Variance #45251, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the location of the drainfield and septic box, sharp slope of driveway, and due to the size of the lot.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of extraordinary situation.
5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are due to the location of the drainfield and septic box, sharp slope of driveway, and due to the size of the lot.
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
10. The minimum variance that is necessary to afford relief is 12.6 feet from a side property line, and subject to the existing garages being demolished.

The motion carried unanimously.

SPECIAL PERMIT AND VARIANCE #45338

JOY LEE POWELL (OWNER)

Applicant wishes to enlarge existing non-conforming structure located in the Village of Upperville, and also wishes a variance to the side yard requirement to allow the addition to be constructed five feet from a side property line, wherein the Zoning Ordinance requires 0 or 12 feet. The subject property is identified as PIN# 6054-75-9895-000, contains .63 acre, is located

at 9146 John S. Mosby Highway (State Route 50), and is zoned Village Commercial and Village, in Scott District.

Mr. Hodge stated that a site visit was conducted. He reviewed the staff report and stated that comments had been received from the Fauquier County Health Department siting concerns with the current septic system, however the Health Department indicates that the problem can be solved with the establishment of an easement.

Ms. Joy Lee Powell was present regarding this request. She stated that without her knowledge, there was a sharing of the existing septic system with an adjacent property owner.

Mr. Rider indicated that if this request is approved, the permit may be contingent upon Health Department approval.

No one else was present to speak regarding this request.

On the motion made by Mr. Meadows, and seconded by Mrs. Mailler, it was moved to grant special permit #45338, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-103

Standards for all Residential Uses in C-1 and CV Districts

In addition to the standards set forth in Section 006 above, all residential uses shall satisfy the following standards:

1. While the C-1 and CV Zoning Districts are intended to accommodate a mixture of commercial and residential uses, and to recognize the mixed-use character of many village centers in the County, residential uses allowed by special permit in such districts shall be of such scale as to avoid conflict with existing and potential commercial uses in the district where located.
2. Such uses shall be subject to the use regulations set forth in Part 4 of Article 3 for conventional developments in the zoning districts indicated:

<u>Dwelling Unit Type</u>	<u>Zoning District</u>
Single Family, Detached	R-4

5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance

- (a) Health Department Approval.

The motion carried unanimously.

On the motion made by Mrs. Mailler and seconded by Mr. Meadows, it was moved to grant Variance #45338, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the exceptional narrowness, location of the existing house at the time of the effective date of the Ordinance.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of:
 - (a) the exceptional narrowness, and the location of the existing dwelling at the time of the effective date of the Ordinance.
5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are due to the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
10. The minimum variance that is necessary to afford relief is seven (7') feet to a side property line, and subject to Fauquier County Health Department approval.

The motion carried unanimously.

SPECIAL PERMIT #45396

MID-ATLANTIC COCA-COLA BOTTLING CO. (OWNERS

BEECH ROAD LIMITED PARTNERSHIP (CONTRACT OWNERS)

Applicants wish to locate a contractor's storage yard (heating and air) and a sheet metal shop. The subject property is identified as PIN#7906-72-3947-000, contains 5.61 acres, is located at 5083 Lee Highway (State Routes 15,29 & 211), and is zoned Commercial-2, in Scott District.

Mr. Hodge reviewed the staff report and stated a site visit was conducted earlier. He stated that the property was previously used as a distribution center by the Coca-Cola Bottling Company.

Mr. Wayne Lanhardt, General Partner and Owner of Beech Road Limited Partnership, was present on behalf of this request. He explained that the property would be occupied by McCrea Equipment Company as a contractor's storage yard (heating and air), and a sheet metal shop. He stated that they currently have their offices in Maryland and want to purchase the property, but cannot operate without special permit approval. Mr. Lanhardt further stated that they plan to have approximately 12 employees on site, and the remainder of the operation is field work. He stated that if the permit is approved, they will be leasing approximately 8,000 square feet to York Contractors.

Mr. Rider asked about outside storage.

Mr. Lanhardt stated that there would be no outside storage of materials, and that most of the trucks would be parked inside for security reasons. He further stated that the only outside use would be for employee parking on the rear of the property.

Mrs. Mailler inquired about outdoor lighting, and he replied that there will be no additional lighting planned, only that for security reasons.

Mr. Hodge stated that Fauquier County currently has a lighting ordinance in effect.

Mr. Rider asked the size of the existing warehouse.

Mr. Lanhardt stated that there is approximately 16,000 square feet in the existing warehouse, and they would only need about half of the space. The other half would be occupied by York Contractors. He explained that the metal building on the rear of the property would be used for a sheet metal shop.

Mr. Rider asked if anyone wished to speak in support of this request.

No one spoke.

Mr. Rider asked if anyone wished to speak in opposition of this request.

Mr. Dan O'Connell, Attorney, representing the adjoining property owners, Mr. and Mrs. William Chakalos, spoke regarding the request. He stated concerns with the run-off from the subject property, onto the Chakalos' property. He also cited concerns with screening of the parking area, and that if the applicants sub-lease the property, that the sub-lessee be subject to any conditions placed on this permit. He further stated that he felt the property violated site plan regulations.

Mr. Rider stated that the building has been there since 1965, and would have had to complied with site plan regulations at that time.

Mr. Hodge stated that a site plan would not be required for this use, since there will be no improvements to the outside.

Mr. Chakalos spoke regarding this request. He cited concerns with drainage, and run-off being a problem. He further stated that he had tried in the past to resolve the issue with the Coca-Cola company.

Mr. Rider stated that the Chakalos' property contained floodplain and that the storm drainage begins north of the Coca-Cola property, and that the drainage is not solely the responsibility of the applicants.

Mr. Rider asked Mr. Lanhardt if he would be willing to screen the parking area, and try to correct the problem.

Mr. Lanhardt stated that he had discussed the problem with Coca-Cola, and they were not willing to do anything. He further stated that he was willing to try to do some grading and improve the drainage, as well as screen the parking area.

On the motion made by Mr. Van Luven, and seconded by Mr. Meadows, it was moved to grant Special Permit #45396, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of

this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance:

1. If property is sub-leased, tenants shall comply with all conditions of this special permit.
2. Applicant has agreed to provide swale or curbing to assist with run-off.
3. Parking area shall be screened.
4. Any lighting to be in conformance with the Fauquier County Lighting Ordinance.

The motion carried unanimously.

SPECIAL PERMIT #45427

WARRENTON CONGREGATION OF JEHOVAHS WITNESSES

TRUSTEES(CONTRACT OWNERS) EFFIE WADE (OWNER)

Applicants wish to construct a new place of worship, and demolish the existing church. The place of worship will contain residential quarters for a minister. The subject properties are identified as PIN#6995-23-4746-000, PIN#6995-23-5970-000, and PIN#6995-24-6078-000, contains approximately 3.24 acres, are located on Airlie Road (State Route 605), and are zoned Residential-1, in Scott District.

Mr. Hodge reviewed the staff report stating that the applicants have removed the request for residential quarters. He stated that a site visit was conducted earlier. He further stated that two of the parcels are owned by the church, and one parcel is owned by Ms. Effie Wade, and with special permit approval for the proposed place of worship, the three parcels will be combined into one parcel.

Mr. Bill Cass spoke on behalf of Warrenton Congregation of Jehovahs Witnesses Trustees. He stated that the existing church has previously been remodeled, and that they had considered an addition, but it would not meet the current growth of the church. He explained that the purpose of this request is to demolish the existing church and construct a new place of worship.

Dr. Branscome asked Mr. Cass the side of the current congregation.

Mr. Cass stated that they currently hold two services to accommodate the members. One congregation has approximately 100 members, and the other about 125 members.

Mr. Rider asked if the entrance to the property would be changed.

Mr. Cass stated he had been in contact with Virginia Department of Transportation regarding the entrance. He stated that the entrance had been improved when Route 605 was relocated in 1991, and VDOT will not require any additional improvements.

Mr. Rider asked if anyone wished to speak regarding this request.

No one spoke.

On the motion made by Dr. Branscome, and seconded by Mr. Barr, it was moved to grant special permit #45427, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

Section 5-602 Additional Standards for Places of Worship

Uses proposed in conjunction with places of worship shall be subject to regulations applicable to such use (e.g. schools, athletic facilities).

5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance:
 - (a) Fauquier County Health Department approval.

The motion carried unanimously.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at
3:10 P.M.

William Rider, Chairman

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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